

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

2020 McLaren 600LT Spider, et.
al,

Defendant.

8:22-CV-240

**CLAIMANTS BRETT A. COOK
REVOCABLE TRUST AND ESTATE
OF BRETT A. COOK'S OBJECTION
TO CLAIMANT DARLAND
PROPERTIES LLC'S NOTICE OF
INTENT TO SERVE SUBPOENA
DUCES TECUM TO FRANKEL
ZACHARIA**

COME NOW Blake Cook, in his capacity as Trustee of the Claimant Brett A. Cook Revocable Trust, (the "Trust") and as Personal Representative of the Claimant Estate of Brett A. Cook (the "Estate"), by and through the undersigned attorney of record, hereby object to the Notice of Subpoena Duces Tecum that Claimant Darland Properties LLC ("Darland") served upon the parties in the above-captioned matter via email on February 1, 2023, seeking to subpoena certain records from Frankel Zacharia. In support of its objection, the Trust and the Estate state as follows:

1. On February 2, 2023, Darland served a notice of intent to serve subpoena duces tecum Frankel Zacharia, a certified public accountant. A true and correct copy of Darland's subpoena duces tecum, including attachments and exhibits, is attached hereto as Exhibit A.

2. Darland's subpoena seeks information regarding "all state and federal tax returns, along with any attachments or schedules thereto" for Stenstrom Services, Inc., Midwest Property Maintenance Solutions, LLC, B2 Real Estate Solutions, LLC, Jeffrey Stenstrom, Brett Cook, Brian Cook, and Blake Cook in their individual capacities. The subpoena also seeks "[a]ny audited

and unaudited balance sheets, income statements, cash flow statements, profit & loss statements, statements of shareholder equity, or capitalization tables dated, prepared during, or covering the applicable time period(s) of January 1, 2015, through May 31, 2022 for Stenstrom Services, Inc., Midwest Property Maintenance Solutions, LLC, and B2 Real Estate Solutions, LLC. Lastly, the subpoena seeks correspondence between Jordan Downey and Jeffrey Stenstrom, Brett Cook, Brian Cook, and Blake Cook. This is an *in rem* civil forfeiture action regarding property. Darland is seeking discovery from several individuals and entities who are not otherwise named or involved in this civil forfeiture case brought by the federal government. The information sought by the subpoena on its face is overbroad, unduly burdensome, and not reasonably tailored to the needs of this case.

3. Further, the Trust and the Estate object because Darland's subpoena seeks an overly broad array of correspondence between Jordan Downey, certified public accountant at Frankel Zacharia, and multiple individuals as noted above. The Trust and the Estate object to this request to the extent that any such communications are protected by attorney-client privilege. Specifically, the Trust and the Estate's firm, Fraser Stryker P.C. L.L.O. previously retained Jordan Downey in connection with Fraser Stryker's representation of Brett A. Cook. As such, any communications sought involving Fraser Stryker are protected by attorney-client privilege.

4. Darland's proposed subpoenas duces tecum to Frankel Zacharia is overly broad on the further basis it seeks information that is largely related to independent affirmative claims Darland filed in District Court for Douglas County, Nebraska, which have been stayed. A motion to stay by Defendants in *Darland Properties, LLC et. al, v. Estate of Brett A. Cook, et. al*, CI 22-7602, in the District Court of Douglas County, Nebraska (the "State Court Action"), was granted by Judge Marlon Polk on December 5, 2022. The basis of Court's stay was, in part, to allow this federal civil forfeiture action to resolve any and all potential remedies that were sought by Darland and others in the State Court Action.

5. Finally, the Trust and the Estate object to the extent the information sought by this subpoena can be obtained from other sources – i.e., from the Government, which is the party charged with pursuing this forfeiture matter. For

example, the Government certainly has access to obtaining state and federal tax returns relevant to its investigation underlying this forfeiture matter. And, it is likely Frankel Zacharia has already responded to a records subpoena from a federal agency investigating the underlying claims, such as the Internal Revenue Service.

DATED this 8th day of February, 2022.

Blake Cook, Personal Representative
of the Estate of Brett A. Cook and
Trustee for the Brett A. Cook
Revocable Trust, Claimants,

By: /s/ Katherine A. McNamara
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ATTORNEYS FOR CLAIMANTS

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the above and foregoing was electronically filed with the clerk of the Court using the CM/ECF system, which sent notification of such filing to all parties associated with this case.

/s/ Katherine A. McNamara